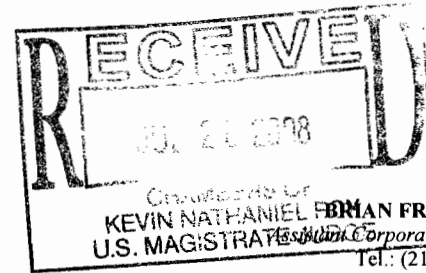


THE CITY OF NEW YORK  
**LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, NY 10007



MICHAEL A. CARDOZO  
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July 25, 2008

**BY HAND DELIVERY**

Honorable Kevin Nathaniel Fox  
United States Magistrate Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 540  
New York, New York 10007-1312

**MEMO ENDORSED**

Re: Eric J. Lesane v. the New York City Department of Correction, et al.,  
08 CV 3990 (RMB) (KNF)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of the above-referenced matter. I write further to this Office's June 24, 2008 letter to the Court in which City defendant requested an enlargement of time until August 22, 2008 to answer or otherwise respond to the complaint. City defendant initially requested an enlargement of time to afford us the opportunity to investigate the allegations in the complaint, resolve representation issues, investigate service on the individuals identified as defendants in the caption of the complaint, and if appropriate, to answer or otherwise respond to the complaint. By Order dated June 25, 2008, Your Honor denied defense counsel's request for a sixty day enlargement of time and ordered that "on or before July 25, 2008, the defendant(s) represented by the Office of the Corporation Counsel shall answer or otherwise respond to the complaint."

From a review of the docket sheet, it appears that the New York City Department of Correction, Deputy Warden Jones, Correction Officer Sanchez, Correction Officer Harris, Correction Officer Villette, Correction Captain Cort, and Correction Officer Nieves were served with a copy of the summons and complaint in early June 2008. It also appears that service was attempted, but unexecuted as to the individual identified in the caption of the complaint as Deputy Diaz. There is no notation on the docket sheet regarding service on Warden Shaw, and upon information and belief, he has not requested representation from the Office of the Corporation Counsel.

As Your Honor may be aware, an answer to the complaint was served and filed today on behalf of defendants the New York City Department of Correction, Correction Officer Sanchez, Correction Officer Harris, Correction Officer Villette, Correction Captain Cort, and Correction Officer Nieves. However, we write to respectfully request a brief further enlargement of time, until August 25, 2008, within which to resolve representation issues pursuant to General Municipal Law Section 50-k concerning Deputy Warden Jones, and if appropriate, to answer or otherwise respond to the complaint on his behalf.

Pursuant to Section 50-k of the New York General Municipal Law, this Office must determine, based on a review of the case, whether we may represent Deputy Warden Jones. Deputy Warden Jones must then decide whether he wishes to be represented by this Office. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864 - 65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). If so, we must obtain Deputy Warden Jones's written authorization. Only after this procedure has been followed can we determine how to proceed in this case.

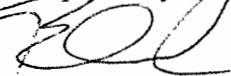
In view of the foregoing, it is respectfully requested that the Court grant the within request. Thank you for your consideration.

7/28/08

*On or before August 12, 2008, the representation issue noted above must be resolved and an answer or other response to the complaint must be made by Deputy Warden Jones. SO ORDERED:*

*Kevin Nathaniel Fox*  
 KEVIN NATHANIEL FOX, U.S.M.J.

Respectfully submitted,



Brian Francolla  
 Assistant Corporation Counsel  
 Special Federal Litigation Division

cc: Mr. Eric Lesane (By mail)  
 Plaintiff *Pro Se*  
 DIN # 241-05-1706  
 Otis Bantum Correction Center  
 16-00 Hazen Street  
 East Elmhurst, New York 11370